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Games, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF M. BRENT
BYARS IN SUPPORT OF EPIC
GAMES, INC.'S
ADMINISTRATIVE MOTION TO
SEAL PORTIONS OF ITS
PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Judge: Hon. Yvonne Gonzalez Rogers

Trial: May 3, 2021

DECLARATION OF M. BRENT BYARS IN SUPPORT OF EPIC GAMES, INC.'S
ADMINISTRATIVE MOTION TO SEAL PORTIONS OF ITS PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW
Case No.: 4:20-cv-05640-YGR-TSH

I, M. Brent Byars, declare as follows:

1. I am a Senior Attorney at Cravath, Swaine & Moore LLP, counsel to Epic Games, Inc. (“Epic”) in the above-captioned actions. I am admitted to appear before this Court *pro hac vice*.

2. I submit this declaration pursuant to Civil Local Rule 79-5. The contents of this declaration are based on my personal knowledge.

3. Epic’s Proposed Findings of Fact and Conclusions of Law quote or reproduce materials that the Court has ordered sealed in a prior Trial Order or Pretrial Order or that are subject to a sealing request. The following Table shows the affected portions and the corresponding Trial Order, Pretrial Order or sealing request.

Proposed Findings of Fact and Conclusions of Law Paragraph or Footnote Number	Relevant Trial Order, Pretrial Order or Pending Sealing Request
Findings of Fact ¶ 16	Dkt. No. 614
Findings of Fact ¶ 36	Sealed Trial Transcript (Evans)
Findings of Fact ¶ 37	Dkt. No. 729 (pending)
Findings of Fact ¶ 48	Dkt. No. 715
Findings of Fact ¶ 53	Dkt. No. 715
Findings of Fact ¶ 73 n.2	Dkt. No. 715
Findings of Fact ¶ 120(b)	Dkt. No. 715
Findings of Fact ¶ 120(c)	Dkt. No. 613
Findings of Fact ¶ 121(a)	Dkt. No. 715
Findings of Fact ¶ 121(b)	Dkt. No. 715
Findings of Fact ¶ 129(e)	Dkt. Nos. 609, 729 (pending)
Findings of Fact ¶ 129(f)	Dkt. No. 609
Findings of Fact ¶ 132(b)	Dkt. No. 614
Findings of Fact ¶ 134	Dkt. No. 729 (pending)
Findings of Fact ¶ 177(a)	Dkt. No. 609

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1	Findings of Fact ¶ 211(c)	Dkt. No. 715
2	Findings of Fact ¶ 236	Dkt. No. 715
3	Findings of Fact ¶ 247(d)	Sealed Trial Transcript (Patel)
4	Findings of Fact ¶ 247(e)	Sealed Trial Transcript (Patel)
5	Findings of Fact ¶ 248(b)	Sealed Trial Transcript (Patel)
6	Findings of Fact ¶ 248(f)	Sealed Trial Transcript (Patel)
7	Findings of Fact ¶ 252(i)	Dkt. No. 577
8	Findings of Fact ¶ 277	Dkt. No. 715
9	Findings of Fact ¶ 278	Dkt. No. 715
10	Findings of Fact ¶ 279	Dkt. No. 715
11	Findings of Fact ¶ 281	Dkt. No. 715
12	Findings of Fact ¶ 282	Dkt. No. 715
13	Findings of Fact ¶ 284	Dkt. No. 715
14	Findings of Fact ¶ 290 n.8	Dkt. No. 614
15	Findings of Fact ¶ 291(b)	Dkt. No. 613
16		Sealed Trial Transcript (Sweeney)
17		Sealed Trial Transcript (Evans)
18	Findings of Fact ¶ 291(c)	Sealed Trial Transcript (Wright)
19	Findings of Fact ¶ 291(d)	Sealed Trial Transcript (Evans)
20	Findings of Fact ¶ 291(e)	Sealed Trial Transcript (Evans)
21	Findings of Fact ¶ 293(b)	Dkt. No. 614
22	Findings of Fact ¶ 293(d)	Dkt. No. 614
23	Findings of Fact ¶ 295(e)	Dkt. No. 729 (pending)
24	Findings of Fact ¶ 295(h)	Dkt. No. 729 (pending)
25	Findings of Fact ¶ 297(g)	Sealed Trial Transcript (Wright)
26	Findings of Fact ¶ 298	Dkt. No. 547 (deferred until trial)

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1	Findings of Fact ¶ 300	Dkt No. 614
2	Findings of Fact ¶ 313(c)	Dkt. No. 613
3	Findings of Fact ¶ 322(b)	Dkt. No. 609
4	Findings of Fact ¶ 333(c)	Dkt. No. 715
5	Findings of Fact ¶ 359(c)	Dkt. No. 594
6	Findings of Fact ¶ 360(c)	Dkt. No. 609
7	Findings of Fact ¶ 361(f)	Dkt. No. 609
8	Findings of Fact ¶ 365	Dkt. No. 738 (pending)
9	Findings of Fact ¶ 366(c)	Dkt. No. 738 (pending)
10	Findings of Fact ¶ 380	Dkt. No. 729 (pending)
11	Findings of Fact ¶ 417	Dkt. No. 715
12	Findings of Fact ¶ 454(d)	Dkt. No. 564
13	Findings of Fact ¶ 471	Dkt. No. 609
14	Findings of Fact ¶ 506	Dkt. No. 715
15	Findings of Fact ¶ 634	Dkt. No. 738 (pending)
16	Findings of Fact ¶ 669	Dkt. No. 738 (pending)
17	Findings of Fact ¶ 706	Dkt. No. 738 (pending)
18	Findings of Fact ¶ 707	Dkt. No. 613
19	Findings of Fact ¶ 718	Dkt. No. 738 (pending)
20	Conclusions of Law ¶ 18	Dkt. No. 715
21	Conclusions of Law ¶ 19	Dkt. Nos. 609, 715, 729 (pending)
22	Conclusions of Law ¶ 60	Dkt. No. 715
23	Conclusions of Law ¶ 96	Dkt. Nos. 609, 715, 729 (pending)
24	Conclusions of Law ¶ 119	Dkt. No. 715
25	Conclusions of Law ¶ 120	Dkt. No. 715
26	Conclusions of Law ¶ 123	Dkt. No. 729 (pending)

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1	Conclusions of Law ¶ 300	Dkt. No. 715
2	Conclusions of Law ¶ 338	Dkt. No. 715
3	Conclusions of Law ¶ 396	Dkt. Nos. 547, 609
4	Conclusions of Law ¶ 412	Dkt. No. 729 (pending)

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6 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
7 true and correct and that I executed this declaration on May 28, 2021 in Town of Brookhaven,
8 New York.

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10 /s/ M. Brent Byars

11 M. Brent Byars
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